

# How To Get Your Investments Out Of South Africa Once You've Formally Emigrated



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*This article was first published on [thesouthafrican.com](https://thesouthafrican.com) and [Moneyweb](https://moneyweb.co.za).*

Whether you are emigrating from South Africa to another country for job opportunities or personal preference, it is always wise to become familiar with the rules and regulations of moving your assets out of South Africa. Moving your assets abroad can come with certain limitations.

**South Africans can transfer their funds by making use of the South African Foreign Capital Allowance.** The South African Foreign Capital Allowance is the annual allowance of R10 million that is available to South African residents, the ones that are temporarily abroad, and emigrants. An individual can apply for this type of allowance if they are at least 18 years old, have a tax clearance certificate from Sars, and provides either a green-coded ID document or a smartcard.

Alternatively, you can use the **Single Discretionary Allowance** to transfer up to R1 million per calendar year out of South Africa. Individuals who apply for this type of allowance must be at least 18 years old and must present either a smartcard or green-coded ID card. No tax clearance certificate is needed.

If you find that you want to transfer an amount of money that exceeds the annual South African Foreign Investment Allowance, you would then have to make use of the Special Allowance. Transfer amounts are not limited when using this allowance, however, approval from the South African Reserve Bank is required, as are the requirements outlined above.

#### **New laws regarding access to retirement fund withdrawal benefit from March 2021**

The Taxation Laws Amendment Act of 23 of 2020 (TLAA 2020) was implemented on 20 January 2021. The law introduced changes concerning retirement fund withdrawal benefits for South African tax residents emigrating to other countries and would take effect at the beginning of March 2021. Before the changes took place, South African tax residents could withdraw from a retirement annuity fund, pension preservation fund, or provident preservation fund upon formally emigrating from South Africa (where that emigration is recognised by the South African Reserve Bank). However, since the modernisation of the exchange control system, the TLAA 2020 introduced a new rule that will allow members to withdraw from their retirement fund savings from March 2021.

From 1 March 2021, retirement members will only be allowed access to their retirement savings provided that they have ceased to be a South African tax resident and have remained a non-resident for three consecutive years or longer, on or after 1 March 2021. This amendment was made to provide help to those who were formally emigrating before 1 March 2021, to withdraw their benefits on the condition that their emigration applications were submitted as well as approved by the South African Reserve Bank before certain dates.

#### **Retirement funds**

To withdraw your retirement fund benefit before retirement, you need to apply with the three-year rule as explained above and you must be a member who resided in South Africa based on a visa, and that visa expired.

#### **Preservation funds**

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A member of a preservation fund is allowed access to their full fund value before retirement by making use of the one withdrawal that is available to all preservation fund members. If the one withdrawal has been utilised, then the member is allowed to access their funds before retirement if they comply with the three-year rule or if their visa expires. It is very important to note that access to the retirement annuity and preservation funds due to the three-year rule being applied or visa expiry is restricted to any time before the retirement date is reached. No withdrawal will be allowed after the retirement date.

### Living annuities

Access to one's capital in a living annuity is not possible unless the value is R125 000 or less. However, an individual can apply for a tax directive from Sars and submit it to their service provider and no tax would be deducted. It would be the individuals' responsibility to declare their worldwide income to the relevant tax authorities who will then determine if there are any taxes due. The individual should keep a rand blocked bank account open in South Africa and the funds can be paid into that account. From there the funds can be transferred into the client's offshore bank account.

### Income Tax Implications

The South African tax system is based on residency which means that all South African residents are taxed on their worldwide income in South Africa. In the situation where a person is no longer a South African resident, the tax system then becomes source-based meaning the individual will be taxed on income that is from a South African source. The withdrawal amount will be subject to income tax in South Africa.

### Discretionary investments

When it comes to discretionary investments, there are hardly any restrictions. Funds that are transferred offshore may remain abroad and be invested freely. There is no requirement for them to be transferred back to South Africa. However, they would be subject to the restriction of not being made available to any other South African resident.

Withdrawing funds from local and offshore unit trusts won't require you to wait a long time for them to reflect in your bank account. With local unit trusts, it takes seven working days for you to receive your funds and with offshore trusts, it takes 10 working days to receive your funds. A withdrawal will either trigger a capital gain or a capital loss. If it triggers a capital gain, you may be liable to pay capital gains tax depending on whether you've utilised your R40 000 tax exemption.

The process of moving abroad comes with various restrictions, however, if you are financially prepared and have all the documentation required by law, you may move overseas without much of a hassle. Before making any hasty decisions about moving your investments abroad, it would be a wise move to consult your financial advisor.

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